

CITY OF HOMER  
HOMER, ALASKA

ORDINANCE 90-5

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF HOMER  
AMENDING TITLE 22, SUBDIVISIONS OF THE HOMER MUNICIPAL  
CODE, BY ADDING A NEW SECTION 22.10.151 UTILITY  
EASEMENTS.

WHEREAS, the Homer Advisory Planning Commission has  
recommended a 15' utility easement for all new subdivisions to  
allow enough space for future utility lines; and

WHEREAS, the Kenai Peninsula Borough is the final platting  
authority and has approved the amendment concept; and

WHEREAS, the Homer Advisory Planning Commission held a  
Public Hearing on the proposed ordinance amendment on February  
14, 1990.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

SECTION 1. Section 22.10.051 Utility Easements. is  
hereby added as follows:

Title 22

SUBDIVISIONS

Chapters:

22.10 Subdivision Improvements

Chapter 22.10

SUBDIVISION IMPROVEMENTS

Sections:

- 22.10.010 Intent.
- 22.10.020 Scope and Authority.
- 22.10.030 Definitions.
- 22.10.040 Applicable and Exempted Subdivisions.
- 22.10.050 Improvement Requirements--General.
- 22.10.051 Utility Easements.
- 22.10.055 Underground Utilities.
- 22.10.060 Appeals.
- 22.10.070 Violations--Penalty.

22.10.010 Intent. The intent of this chapter is to specify regulations supplemental to the Kenai Peninsula Borough subdivision ordinance and to specify the improvements to be required for each subdivision, and exemptions to the requirements. (Ord. 87-8(s) (part), 1987).

22.10.020 Scope and Authority. This chapter shall govern all subdivisions within the City of Homer under the authority of the Kenai Peninsula Borough Code, Chapter 20. (Ord. 87-8(s) (part), 1987).

22.10.030 Definitions. The following words and phrases shall have the meanings set forth in this section, unless otherwise provided or the context otherwise requires:

a. "Subdivider" means a person, firm, association, partnership, corporation, governmental unit or combination of any of these which may hold any recorded or equitable ownership interest in land, and dividing or proposing to divide such land so as to constitute a subdivision as defined in this section. This term shall also include all heirs, assigns or successors in interest, or representatives of, the subdivider, owner, proprietor or developer.

b. "Subdivision" means the division of a tract or parcel of land into two or more lots, sites or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, including any subdivision or resubdivision. When appropriate to the context, the term shall refer to the process of subdividing or to the land or areas subdivided. (Ord. 87-8(s) (part), 1987).

22.10.040 Applicable and Exempted Subdivisions. The standards of this chapter shall apply to all subdivisions in the City of Homer. Exemptions from the requirements of Chapter 22.10 of this Code may be granted concurrent with preliminary plat approval of the Homer Advisory Planning commission under the following conditions:

a. Resubdivision of existing subdivisions not to exceed three lots and involving no new dedications of rights-of-way;

b. Special conditions and circumstances exist which are peculiar to the property involved and are not generally applicable to other properties in the City. These special conditions cannot be caused by the actions of the applicant;

c. Financial hardship or inconvenience shall not be reason for granting an exception;

d. Previous exceptions shall not be considered grounds for granting exception.

22.10.050 Improvement Requirements--General. a. No subdivision plat shall be released by the Kenai Peninsula Borough for filing at the State Recorder's Office, until the subdivider or developer of such subdivision constructs streets in all rights-of-way dedicated by said plat and all other utilities and other public improvements to be constructed in said rights-of-way according to the standards and procedures required under Title 11 of this Code.

The plat shall not be released for filing until the City of Homer issues written approval of said street and utility easements to the Kenai Peninsula Borough.

This provision may be waived if the developer signs an agreement with the City of Homer that no building permit and/or request for utility connection will be submitted to the City for any lot within the subdivision until such time as the improvements are completed and accepted by the City of Homer. This agreement shall be recorded and constitute a covenant running with the land.

b. Plats may be exempted from these provisions by the Commission as provided for in Section 22.10.040.

c. The subdivider shall be required to dedicate street rights-of-way according to the standards and specifications of Chapter 11.04 of this Code and the City of Homer Design Criteria Manual. Beyond a minimum of sixty feet, the subdivider may agree to a note attached to said subdivision plat providing sufficient setback to allow future expansion of the right-of-way without removal of improvements. Horizontal alignments of streets on proposed plats if the alignments do not conform to Chapter 11.04 and the Design Criteria Manual. Final plat approval shall thus be subject to the approval of horizontal alignment by the City Public Works Engineer.

d. All street and utility main improvements to be constructed as part of a subdivision improvement project shall be monumented according to the procedures of Chapter 11.20 (Section 11.20.090(d) of this Code.

22.10.051 Utility Easements. Each lot of a new subdivision must have access from a 15 foot utility easement.

22.10.055 Underground Utilities. a. All wire or cable facilities, including, but not limited to, electric power, telephone and CATV cables, providing permanent service in newly developed residential subdivisions shall be located underground throughout the subdivision at the expense of the subdivision developer. The subdivision developer is responsible for complying with the requirements of this section and shall make necessary arrangements, including financial arrangements, with the serving utility company or companies for the installation of such facilities. The subdivision developer shall provide appropriate easements or dedicated rights-of-way so as to provide access for all utilities and so as to cause minimum conflict between utilities. Developers of new commercial and industrial properties are encouraged to provide for the location of all utilities underground.

b. All existing overhead utilities cable facilities, including, but not limited to, electric power, telephone, and CATV cables which shall, after the effective date of the ordinance confined in this section, be relocated and/or which receive major modifications be placed underground unless the utility obtains an exception pursuant to the provisions of subparagraphs d and e of this section. Major modifications shall not include reconductoring, reinsulating or in-kind replacement. The provisions of this subparagraph shall apply equally to the abandonment of pole lines except that if one utility abandons a pole line another existing utility which shares that pole line may buy the pole line and continue to use the pole line for the acquiring utility's cable facilities.

c. Appurtenances such as transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessary to underground utilities may be placed above ground.

d. Exceptions to the requirement of this section that utility cable facilities be placed underground may be obtained for good cause shown including, but not limited to, the following:

1. Plats which receive preliminary approval prior to adoption of the ordinance from which this section derives;
2. Facilities which must cross abnormally wet, swampy areas;
3. Facilities which must cross areas that are subject to abnormal frost heaving;
4. Facilities which must be placed in areas subject to abnormal drainage;

5. Facilities which must be placed in areas where the utility is unable to obtain necessary rights-of-way;

6. Facilities providing temporary service not to exceed one year when frozen ground or other conditions make burial of such facilities an undue hardship on the utility;

7. Facilities which have to cross unplatted, or unrecorded, or undeveloped tracts of land;

8. Electric power lines having a line to line voltage greater than 35KV;

9. Electric power lines carrying more than one thousand KVA of electrical energy;

10. Future user of existing pole lines when the host utility is overhead; provided, however, the future user must agree to vacate the pole line when the host utility vacates the pole line.

e. Exceptions, other than those listed in subsection d of this section, to the requirements of this section may be granted by the City Council, after review and recommendation by the Planning Commission, upon making a finding that conditions exist which make underground placement of utilities unreasonable or impractical. (Ord. 87-8(s) (part), 1987).

22.10.060 Appeals. Any person or persons who are affected by an action or determination taken under the chapter, may appeal said action under the appeals procedure outlined in Chapter 21.68 of this Code. Appeals from any action by the City Council granting or denying an exception under subsections d and e of Section 22.10.055 shall be taken directly to the Superior Court for the State of Alaska, within thirty days from the date of such action. (Ord. 87-8(s) (part), 1987).


22.10.070 Violation--Penalty. The violation of any provisions contained in this chapter shall be punished under Section 1.16.010. (Ord. 87-8(s) (part), 1987).

Section 2. This ordinance shall become effective the day after its adoption.

City of Homer

  
John P. Calhoun, Mayor

ATTEST:

  
Mary Shannon, Deputy City Clerk

First Reading: 02/23/90

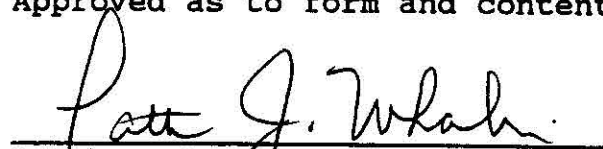
Public Hearing: 03/12/90

Second Reading: 03/27/90

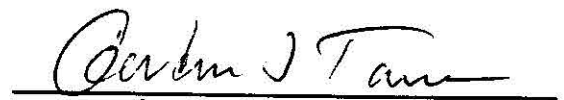
Adoption:

Effective Date: 03/28/90

Approved as to form and content:

  
Patti J. Whalin,  
Acting City Manager

4/2/90  
Date

  
Gordon J. Tans  
City Attorney

29 MAR 90  
Date